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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER				
PARKER, BRANDI P				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,407

Applicant(s)

PARKER, JANE SMITH

Examiner

BRANDI P. PARKER

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/23/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-18, 20, 22-29 and 31 is/are pending in the application.
- 4a) Of the above claim(s) 9, 19, 21 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-18, 20, 22-29 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/24/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/23/2009 has been entered.

Acknowledgements

2. This is a non-final office action in response to the Applicant's Request for Continued Examination filed on 1/23/2009.
3. Claims 1-8, 10-18, 20, 22-29 and 31 are pending in this Office Action. Claims 1, 11, 22 and 31 are amended. Claims 9, 19, 21 and 30 are cancelled.

Response to Applicant's Remarks

4. In response to Applicant's argument that Green fails to show or suggest "logic configured to deny the vacation request due to a lack of vacation availability at a time of the vacation request" and logic configured to grant the vacation request due to vacation

availability at a time after the vacation request was denied", Examiner respectfully disagrees. Green teaches a vacation scheduler where an agent of a management unit assigns vacation shifts (column/line 2/48-53, 3/42-47). Figure 6 of Green discloses a summary of the vacation data, including the total number of vacation days available, taken and remaining. The user is able to select vacation days from those indicated as being available and the vacation request can be subsequently granted (column/line 6/17-21). By listing days available and remaining, the request for vacation will be denied or not allowed if there are no vacation days available (column/line 6/3-12). At a later time, when the days are available, the system in Green will allow for the user to select available days and their vacation request will be granted. Therefore, Green does teach and suggest these limitations.

5. In response to Applicant's traversal of Examiner's conclusion that "using email in a work environment is old and well known", particularly in the context of transmitting vacation approvals, Examiner would like to direct Applicant's attention to page 3 of the August 31, 2001 article [Simplify time-off approval with our sample policy and request form](http://articles.techrepublic.com.com/5100-10878_11-1061051.html), by John Connell, where employees receive an e-mail confirmation when a manager approves a vacation or leave request.
(http://articles.techrepublic.com.com/5100-10878_11-1061051.html)

6. In response to Applicants traversal of Examiner's conclusion that "it is old and well known in the art that a communications switch is used to connect telephone calls",

particularly in a call center environment, Examiner would like to direct Applicant's attention to The Call Center Dictionary, by Madeline Bodin and Keith Dawson, published by Focal Press, 2002. Pages 21-23 discuss an Automatic Call Distributor ("ACD) switch used in the call center context. In addition, the 1999 article by Christopher Botting entitled Building a Virtual Call Center discusses the use of switches in call center technology.
(http://findarticles.com/p/articles/mi_qa3877/is_199905/ai_n8841997).

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 11-18 and 20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

9. Based on Supreme Court precedent and recent Federal Circuit decisions, in order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to a machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *In re Bilski et al*, 88 USPQ 2d 1385 CAFC (2008). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these

requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter.

Claim 11 is directed towards a method of processing a vacation request. As the claims are not sufficiently tied to an apparatus, such as a computer, and/or do not transform the underlying subject matter (from your claim) to a different state, the claimed method is non-statutory and therefore rejected under 35 U.S.C. 101.

10. Claims 12-18 and 20 are rejected for being dependent upon rejected claim 11.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

13. Claim 1 is directed towards logic stored on a computer readable medium, when executed, causes a computer to perform a vacation processing system. The statutory class that Applicant is attempting to convey is unclear. If claim 1 refers to a vacation processing system, the corresponding structure must be recited. If claim 1 is a

computer readable medium containing executable instructions, then the logic for processing the vacation request must be recited without mention of a particular system.

14. Claims 2-9 are rejected for being dependent upon rejected claim 1.

Examiner's Notes

15. The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green (US 6192346) in view of Leamon (US 6970829).

18. With respect to **claims 1, 11 and 22**, Green teaches Logic stored on a computer readable medium that when executed causes a computer to perform a vacation processing system, the logic comprising:

- a. logic configured to provide a vacation eligibility criteria based on at least a first rule (column/line 4/63-5/11, Figure 6); and
- b. logic configured to process the vacation request of a first employee based on the workload estimate and the vacation eligibility criteria (column/line 4/52-5/34) comprising:
- c. logic configured to receive the vacation request of the first employee (column/line 6/17-21);
- d. logic configured to deny the vacation request due to a lack of vacation availability at a time of the vacation request (column/line 6/3-12); and
- e. logic configured to grant the vacation request due to a vacation availability at a time after the vacation request was denied (column/line 6/17-21).

Green does not explicitly teach providing a workload statistic used to operate a call center. However, Leamon teaches

- f. logic configured to provide a workload estimate comprising at least a first workload statistic that is used to operate a first call center (column/line 5/40-47)

It would have been obvious to one having ordinary skill in the art to modify the system in Green with the disclosure in Leamon since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

19. As to **claims 2, 12 and 23**, Leamon teaches wherein the first workload statistic comprises an estimated volume of telephone calls that the first call center is expected to handle over a first period of time (column/line 1/48-51).

20. Regarding **claims 3, 13 and 24**, Leamon teaches wherein the first workload statistic comprises an estimated volume of telephone calls that the first call center is expected to handle over a first period of time, and wherein the estimated volume of telephone calls is derived from historical call volume data obtained from a communications switch (column/line 19/26-34).

21. With respect to **claims 4, 14 and 25**, Green teaches wherein the first workload statistic comprises an expected number of operators needed to operate the first call center during a first period of time (column/line 4/21-28, 4/34-37).

22. As to **claims 5, 15 and 26** Leamon teaches wherein the first workload statistic is derived from telephone call data stored in a database of a communications switch that routes incoming calls or place the calls in a queue. (column/line 1/48-51, 3/12-18, 19/26-34). Although Leamon does not explicitly teach storing call data in the database of a POTS switch, Examiner notes that it would have been obvious to one having ordinary skill in the art to substitute a communication switch with a queuing system for a POTS switch because the call center operators' telephone lines can be connected to speed the call transfer process.

1. Regarding **claims 6, 16 and 27**, Green teaches system of claim 1, wherein the first rule is derived from an employment grade of the first employee, and wherein the employment grade comprises at least one of a payscale and a length of service of the first employee (Figure 5, item 96; column/line 5/56-65) .

2. With respect to **claims 7, 17 and 28**, Leamon teaches wherein the workload estimate is provided to the first call center in a timely basis, the timely basis comprising at least one of an hourly basis, a daily basis, a weekly basis, a monthly basis, a quarterly basis, a semi-annual basis, and an annual basis (column/line 4/38-44).

3. As to **claims 8, 18 and 29**, Green teaches the system of claim 7, wherein the vacation eligibility criteria is provided in a timely basis, the timely basis comprising at least one of an hourly basis, a daily basis, a weekly basis, a monthly basis, a quarterly basis, a semi-annual basis, and an annual basis (Figure 4, column/line 4/63-5/4).

4. As to **claims 10, 20 and 31**, Green teaches wherein granting the vacation request comprises providing a summary of the available vacation days. Although Green does not teach transmitting an e-mail to send notification of the approval of the vacation request, Leamon teaches a call contact center with the capability to conduct transactions through email (column/line 4/22-28). Furthermore, it is old and well known in the art to transmit vacation or leave approvals to an employee through email.

Conclusion

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDI P. PARKER whose telephone number is (571) 272-9796. The examiner can normally be reached on Mon-Thurs. 8-5pm.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley B. Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRANDI P PARKER/
Examiner, Art Unit 3624

/Bradley B Bayat/
Supervisory Patent Examiner, Art Unit 3624